



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street, 3rd floor
New York, New York 10007*

January 4, 2019

By ECF

Hon. Sarah Netburn
U.S. Magistrate Judge
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *In re Terrorist Attacks, 03 MDL 1570 (GBD) (SN)*

Dear Judge Netburn:

We write respectfully concerning the recent lapse in appropriations of the Department of Justice ("DOJ") and other agencies.

On December 27, 2018, Chief Judge Colleen McMahon issued the attached Standing Order, which stays all civil cases (other than civil forfeiture cases) in which this Office has appeared as counsel of record for the United States, its agencies or officials, until the business day after the President signs into law a budget appropriation that restores DOJ funding. The government understands that this Order stays any government obligations or activities relating to the subpoenas served upon the Federal Bureau of Investigation ("FBI"), the Department of State ("State Department"), the Central Intelligence Agency ("CIA"), and the Department of the Treasury ("Treasury"), including the government's obligation pursuant to the Court's orders dated November 26 and December 21, 2018 [ECF Nos. 4259, 4298], to file a joint status report today with regard to the FBI's declassification and privilege review.

The government does not take the position that aspects of the multidistrict litigation that do not involve the government or require action or attention by a government agency need to be stayed. However, we anticipate that there may be matters that do not directly implicate the government but nevertheless require attention by one or more agencies or government counsel. For example, we understand that the PECs were scheduled to file a reply brief next week that may reference information from the documents produced by the FBI pursuant to the FBI Protective Order, and the PECs therefore may be proposing redactions to the brief. We understand that the stay imposed

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by the Standing Order would extend to FBI and DOJ review of the proposed redactions. We also note that key FBI personnel involved in the review of documents, including our principal point of contact at the FBI, have been furloughed. It would therefore be difficult to secure any necessary FBI review and consultation during the shutdown. Key personnel at the State Department have also been furloughed.

The undersigned government counsel will be available, if necessary, to confer with the PECs and other counsel to assess the effect of the lapse in appropriations on particular matters in the case.

We thank the Court for its consideration of this letter.

Very truly yours,

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Encl.

cc: Counsel of Record (by ECF)